



IFW 2615

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Stephen L. Ball)
) Group Art Unit: 2615
Serial No.: 09/830,806)
) Examiner: Hung H. Lam
Filed: July 30, 2001)
) Attorney Docket: 11783.0017.PCUS00
For: APPARATUS AND METHOD FOR)
OBTAINING 3D IMAGES)

**RESPONSE TO RESTRICTION REQUIREMENT
MAILED SEPTEMBER 27, 2005**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22315-1450

Sir:

In the Office Action mailed September 27, 2005, the Examiner made a restriction requirement among the following species, which are alleged to be patentably distinct:

- I. Species 1: Figures 1-17,
- II. Species 2: Figure 18,
- III. Species 3: Figures 19a-21b,
- IV. Species 4: Figure 22,
- V. Species 5: Figures 23-24, and
- VI. Species 6: Figures 25-30.

Applicant traverses this restriction requirement. The species alleged to be patentably distinct are figures that depict an imaging device. Figures 1-17 show the general imaging device, Figure 18 shows a form of the device mounted on a helmet, Figures 19a-21b show a form of the device mounted on a vehicle; Figure 22 shows a form of the device for mounting on a head piece; Figures 23-24 show a form of the apparatus as a hand held device, and Figures 25-30 also show a form of the apparatus as a hand held device. The claims are not limited to any of these forms and, instead, are directed to the basic components of the imaging device and the method for generating a three-dimensional image. In other words, all claims may be grouped with all of the alleged species. Therefore, applicants urge that all claims could and should be examined together without undue burden.

Moreover, the Examiner has not given any basis for the allegation that the claims are patentably distinct. The Manual of Patent Examination Procedure requires the Examiner to provide a concise explanation to support such an allegation:

The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.

MPEP 808.01.

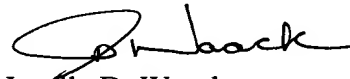
Here, only a mere statement of conclusion was provided and, as stated in the above section of the MPEP, that is inadequate to support the allegation that the identified species are distinct. Accordingly, the restriction requirement should be withdrawn.

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Since applicant is required to include an identification of a species and a listing of all claims readable thereon, applicants elect, with traverse, Group I (Species 1: Figures 1-17), which corresponds to claims 1-29.

If the Examiner has any questions or comments regarding this application, he is invited to telephone the undersigned assignee's representative.

Respectfully submitted,



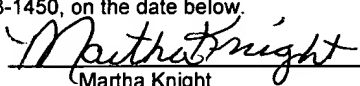
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February 27, 2006

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| <p style="text-align: center;">CERTIFICATE OF MAILING 37 C.F.R. 1.8</p> <p>I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below.</p> <p>February 27, 2006  Martha Knight</p> |
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